

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 504 Session of 2015

INTRODUCED BY GABLER, BAKER, BENNINGHOFF, BOBACK, CALTAGIRONE, CAUSER, CUTLER, EVERETT, GIBBONS, GROVE, A. HARRIS, IRVIN, F. KELLER, M. K. KELLER, MAJOR, METCALFE, METZGAR, MILLARD, OBERLANDER, PEIFER, PICKETT, RAPP, SANKEY, SAYLOR, SONNEY AND WARNER, FEBRUARY 17, 2015

REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 17, 2015

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
 2 act relating to tax reform and State taxation by codifying
 3 and enumerating certain subjects of taxation and imposing
 4 taxes thereon; providing procedures for the payment,
 5 collection, administration and enforcement thereof; providing
 6 for tax credits in certain cases; conferring powers and
 7 imposing duties upon the Department of Revenue, certain
 8 employers, fiduciaries, individuals, persons, corporations
 9 and other entities; prescribing crimes, offenses and
 10 penalties," in tax for education, further providing for sales
 11 and use tax for timbering.

12 The General Assembly of the Commonwealth of Pennsylvania
 13 hereby enacts as follows:

14 Section 1. Section 201(k) (8) and (o) (4) (B) of the act of
 15 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
 16 1971, amended April 23, 1998 (P.L.239, No.45), are amended to
 17 read:

18 Section 201. Definitions.--The following words, terms and
 19 phrases when used in this Article II shall have the meaning
 20 ascribed to them in this section, except where the context
 21 clearly indicates a different meaning:

1 * * *

2 (k) "Sale at retail."

3 * * *

4 (8) Any retention of possession, custody or a license to use
5 or consume tangible personal property or any further obtaining
6 of services described in subclauses (2), (3) and (4) of this
7 clause pursuant to a rental or service contract or other
8 arrangement (other than as security).

9 The term "sale at retail" shall not include (i) any such
10 transfer of tangible personal property or rendition of services
11 for the purpose of resale, or (ii) such rendition of services or
12 the transfer of tangible personal property including, but not
13 limited to, machinery and equipment and parts therefor and
14 supplies to be used or consumed by the purchaser directly in the
15 operations of--

16 (A) The manufacture of tangible personal property.

17 (B) Farming, dairying, agriculture, timbering, horticulture
18 or floriculture when engaged in as a business enterprise. The
19 term "farming" shall include the propagation and raising of
20 ranch raised fur-bearing animals and the propagation of game
21 birds for commercial purposes by holders of propagation permits
22 issued under 34 Pa.C.S. (relating to game) and the propagation
23 and raising of horses to be used exclusively for commercial
24 racing activities. The term "timbering" shall include:

25 (1) The business of producing or harvesting trees from
26 forests, woodlots or tree farms for the purpose of the
27 commercial production of wood, paper or energy products derived
28 from wood.

29 (2) All operations prior to the transport of the harvested
30 product necessary for the removal of timber or forest products

1 from the site, in-field processing of trees into logs or chips,
2 complying with environmental protection and safety requirements
3 applicable to the harvest of forest products, creating access to
4 the harvest site, loading of forest products onto highway
5 vehicles for transport to storage or processing facilities and
6 postharvest site reclamation, including those activities
7 necessary to improve timber growth or ensure natural or direct
8 reforestation of the site.

9 (C) The producing, delivering or rendering of a public
10 utility service, or in constructing, reconstructing, remodeling,
11 repairing or maintaining the facilities which are directly used
12 in producing, delivering or rendering such service.

13 (D) Processing as defined in clause (d) of this section.

14 The exclusions provided in paragraphs (A), (B), (C) and (D)
15 shall not apply to any vehicle required to be registered under
16 The Vehicle Code, except those vehicles used directly by a
17 public utility engaged in business as a common carrier; to
18 maintenance facilities; or to materials, supplies or equipment
19 to be used or consumed in the construction, reconstruction,
20 remodeling, repair or maintenance of real estate other than
21 directly used machinery, equipment, parts or foundations
22 therefor that may be affixed to such real estate.

23 The exclusions provided in paragraphs (A), (B), (C) and (D)
24 shall not apply to tangible personal property or services to be
25 used or consumed in managerial sales or other nonoperational
26 activities, nor to the purchase or use of tangible personal
27 property or services by any person other than the person
28 directly using the same in the operations described in
29 paragraphs (A), (B), (C) and (D) herein.

30 The exclusion provided in paragraph (C) shall not apply to

1 (i) construction materials, supplies or equipment used to
2 construct, reconstruct, remodel, repair or maintain facilities
3 not used directly by the purchaser in the production, delivering
4 or rendition of public utility service, (ii) construction
5 materials, supplies or equipment used to construct, reconstruct,
6 remodel, repair or maintain a building, road or similar
7 structure, or (iii) tools and equipment used but not installed
8 in the maintenance of facilities used directly in the
9 production, delivering or rendition of a public utility service.

10 The exclusions provided in paragraphs (A), (B), (C) and (D)
11 shall not apply to the services enumerated in clauses (k) (11)
12 through (18) and (w) through (kk), except that the exclusion
13 provided in this subclause for farming, dairying and agriculture
14 shall apply to the service enumerated in clause (z).

15 * * *

16 (o) "Use."

17 * * *

18 (4) The obtaining by a purchaser of the service of
19 repairing, altering, mending, pressing, fitting, dyeing,
20 laundering, drycleaning or cleaning tangible personal property
21 other than wearing apparel or shoes or applying or installing
22 tangible personal property as a repair or replacement part of
23 other tangible personal property other than wearing apparel or
24 shoes, whether or not the services are performed directly or by
25 any means other than by means of coin-operated self-service
26 laundry equipment for wearing apparel or household goods, and
27 whether or not any tangible personal property is transferred to
28 the purchaser in conjunction therewith, except such services as
29 are obtained in the construction, reconstruction, remodeling,
30 repair or maintenance of real estate: Provided, however, That

1 this subclause shall not be deemed to impose tax upon such
2 services in the preparation for sale of new items which are
3 excluded from the tax under clause (26) of section 204, or upon
4 diaper service: And provided further, That the term "use" shall
5 not include--

6 * * *

7 (B) The use or consumption of tangible personal property,
8 including but not limited to machinery and equipment and parts
9 therefor, and supplies or the obtaining of the services
10 described in subclauses (2), (3) and (4) of this clause directly
11 in the operations of--

12 (i) The manufacture of tangible personal property.

13 (ii) Farming, dairying, agriculture, timbering, horticulture
14 or floriculture when engaged in as a business enterprise. The
15 term "farming" shall include the propagation and raising of
16 ranch-raised furbearing animals and the propagation of game
17 birds for commercial purposes by holders of propagation permits
18 issued under 34 Pa.C.S. (relating to game) and the propagation
19 and raising of horses to be used exclusively for commercial
20 racing activities. The term "timbering" shall include:

21 (1) The business of producing or harvesting trees from
22 forests, woodlots or tree farms for the purpose of the
23 commercial production of wood, paper or energy products derived
24 from wood.

25 (2) All operations prior to the transport of the harvested
26 product necessary for the removal of timber or forest products
27 from the site, in-field processing of trees into logs or chips,
28 complying with environmental protection and safety requirements
29 applicable to the harvest of forest products, creating access to
30 the harvest site, loading of forest products onto highway

1 vehicles for transport to storage or processing facilities and
2 postharvest site reclamation, including those activities
3 necessary to improve timber growth or ensure natural or direct
4 reforestation of the site.

5 (iii) The producing, delivering or rendering of a public
6 utility service, or in constructing, reconstructing, remodeling,
7 repairing or maintaining the facilities which are directly used
8 in producing, delivering or rendering such service.

9 (iv) Processing as defined in subclause (d) of this section.

10 The exclusions provided in subparagraphs (i), (ii), (iii) and
11 (iv) shall not apply to any vehicle required to be registered
12 under The Vehicle Code except those vehicles directly used by a
13 public utility engaged in the business as a common carrier; to
14 maintenance facilities; or to materials, supplies or equipment
15 to be used or consumed in the construction, reconstruction,
16 remodeling, repair or maintenance of real estate other than
17 directly used machinery, equipment, parts or foundations
18 therefor that may be affixed to such real estate. The exclusions
19 provided in subparagraphs (i), (ii), (iii) and (iv) shall not
20 apply to tangible personal property or services to be used or
21 consumed in managerial sales or other nonoperational activities,
22 nor to the purchase or use of tangible personal property or
23 services by any person other than the person directly using the
24 same in the operations described in subparagraphs (i), (ii),
25 (iii) and (iv).

26 The exclusion provided in subparagraph (iii) shall not apply
27 to (A) construction materials, supplies or equipment used to
28 construct, reconstruct, remodel, repair or maintain facilities
29 not used directly by the purchaser in the production, delivering
30 or rendition of public utility service or (B) tools and

1 equipment used but not installed in the maintenance of
2 facilities used directly in the production, delivering or
3 rendition of a public utility service.

4 The exclusion provided in subparagraphs (i), (ii), (iii) and
5 (iv) shall not apply to the services enumerated in clauses (o)
6 (9) through (16) and (w) through (kk), except that the exclusion
7 provided in subparagraph (ii) for farming, dairying and
8 agriculture shall apply to the service enumerated in clause (z).

9 * * *

10 Section 2. This act shall take effect in 60 days.